

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation
Against:**

KENNETH A. MURACHANIAN, M.D.

Case No. 12-2012-227060

**Physician's and Surgeon's
Certificate No. A64167**

Respondent

DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on August 25, 2017.

IT IS SO ORDERED: July 27, 2017.

MEDICAL BOARD OF CALIFORNIA



Michelle Anne Bholat, M.D., Chair
Panel B

1 XAVIER BECERRA
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 LYNNE K. DOMBROWSKI
Deputy Attorney General
4 State Bar No. 128080
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004.
Telephone: (415) 703-5578
6 Facsimile: (415) 703-5480
E-mail: Lynne.Dombrowski@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 12-2012-227060

13 **KENNETH A. MURACHANIAN, M.D.**

OAH No. 2017040683

14 3536 Mendocino Avenue, Suite 300
Santa Rosa, CA 95403

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Physician's and Surgeon's Certificate No.
A64167

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California (Board). She brought this action solely in her official capacity and is represented in
23 this matter by Xavier Becerra, Attorney General of the State of California, by Lynne K.
24 Dombrowski, Deputy Attorney General.

25 2. Respondent Kenneth A. Murachanian, M.D. (Respondent) is represented in this
26 proceeding by attorney Robert S. Willoughby, whose address is: Hassard Bonnington, LLP
27 275 Battery Street, Suite 1600; San Francisco, CA 94111-3370.

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3. On or about December 19, 1997, the Board issued Physician's and Surgeon's Certificate No. A64167 to Kenneth A. Murachanian, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 12-2012-227060, and will expire on October 31, 2017, unless renewed.

JURISDICTION

4. Accusation No. 12-2012-227060 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on October 7, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 12-2012-227060 is attached as Exhibit A and incorporated herein by reference.

ADVICE AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 12-2012-227060. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 12-2012-227060.

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10. Respondent agrees that his Physician's and Surgeon's Certificate is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Medical Board of California. Respondent understands and agrees that counsel for Complainant and the staff of the Medical Board of California may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A64167 issued to Respondent Kenneth A. Murachanian, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for thirty-five (35) months on the following terms and conditions.

1. CONTROLLED SUBSTANCES - MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any

1 recommendation or approval which enables a patient or patient's primary caregiver to possess or
2 cultivate marijuana for the personal medical purposes of the patient within the meaning of Health
3 and Safety Code section 11362.5, during probation, showing all of the following: 1) the name and
4 address of the patient; 2) the date; 3) the character and quantity of controlled substances involved;
5 and 4) the indications and diagnosis for which the controlled substances were furnished.

6 Respondent shall keep these records in a separate file or ledger, in chronological order. All
7 records and any inventories of controlled substances shall be available for immediate inspection
8 and copying on the premises by the Board or its designee at all times during business hours and
9 shall be retained for the entire term of probation.

10 2. PRESCRIBING PRACTICES COURSE. Within 60 calendar days of the effective
11 date of this Decision, Respondent shall enroll in a course in prescribing practices approved in
12 advance by the Board or its designee. Respondent shall provide the approved course provider
13 with any information and documents that the approved course provider may deem pertinent.
14 Respondent shall participate in and successfully complete the classroom component of the course
15 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
16 complete any other component of the course within one (1) year of enrollment. The prescribing
17 practices course shall be at Respondent's expense and shall be in addition to the Continuing
18 Medical Education (CME) requirements for renewal of licensure.

19 A prescribing practices course taken after the acts that gave rise to the charges in the
20 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
21 or its designee, be accepted towards the fulfillment of this condition if the course would have
22 been approved by the Board or its designee had the course been taken after the effective date of
23 this Decision.

24 Respondent shall submit a certification of successful completion to the Board or its
25 designee not later than 15 calendar days after successfully completing the course, or not later than
26 15 calendar days after the effective date of the Decision, whichever is later.

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1 3. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective
2 date of this Decision, Respondent shall enroll in a course in medical record keeping approved in
3 advance by the Board or its designee. Respondent shall provide the approved course provider
4 with any information and documents that the approved course provider may deem pertinent.
5 Respondent shall participate in and successfully complete the classroom component of the course
6 not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully
7 complete any other component of the course within one (1) year of enrollment. The medical
8 record keeping course shall be at Respondent's expense and shall be in addition to the Continuing
9 Medical Education (CME) requirements for renewal of licensure.

10 A medical record keeping course taken after the acts that gave rise to the charges in the
11 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
12 or its designee, be accepted towards the fulfillment of this condition if the course would have
13 been approved by the Board or its designee had the course been taken after the effective date of
14 this Decision.

15 Respondent shall submit a certification of successful completion to the Board or its
16 designee not later than 15 calendar days after successfully completing the course, or not later than
17 15 calendar days after the effective date of the Decision, whichever is later.

18 4. SOLO PRACTICE PROHIBITION. Respondent is prohibited from engaging in the
19 solo practice of medicine. Prohibited solo practice includes, but is not limited to, a practice
20 where: 1) Respondent merely shares office space with another physician but is not affiliated for
21 purposes of providing patient care, or 2) Respondent is the sole physician practitioner at that
22 location.

23 If Respondent fails to establish a practice with another physician or secure employment in
24 an appropriate practice setting within 60 calendar days of the effective date of this Decision,
25 Respondent shall receive a notification from the Board or its designee to cease the practice of
26 medicine within three (3) calendar days after being so notified. The Respondent shall not resume
27 practice until an appropriate practice setting is established.

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1 If, during the course of the probation, the Respondent's practice setting changes and the
2 Respondent is no longer practicing in a setting in compliance with this Decision, the Respondent
3 shall notify the Board or its designee within five (5) calendar days of the practice setting change.
4 If Respondent fails to establish a practice with another physician or secure employment in an
5 appropriate practice setting within 60 calendar days of the practice setting change, Respondent
6 shall receive a notification from the Board or its designee to cease the practice of medicine within
7 three (3) calendar days after being so notified. The Respondent shall not resume practice until an
8 appropriate practice setting is established.

9 5. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
10 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
11 Chief Executive Officer at every hospital where privileges or membership are extended to
12 Respondent, at any other facility where Respondent engages in the practice of medicine,
13 including all physician and locum tenens registries or other similar agencies, and to the Chief
14 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
15 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
16 calendar days.

17 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

18 6. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE
19 NURSES. During probation, Respondent is prohibited from supervising physician assistants and
20 advanced practice nurses.

21 7. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
22 governing the practice of medicine in California and remain in full compliance with any court
23 ordered criminal probation, payments, and other orders.

24 8. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
25 under penalty of perjury on forms provided by the Board, stating whether there has been
26 compliance with all the conditions of probation.

27 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
28 of the preceding quarter.

1 9. GENERAL PROBATION REQUIREMENTS.

2 Compliance with Probation Unit

3 Respondent shall comply with the Board's probation unit.

4 Address Changes

5 Respondent shall, at all times, keep the Board informed of Respondent's business and
6 residence addresses, email address (if available), and telephone number. Changes of such
7 addresses shall be immediately communicated in writing to the Board or its designee. Under no
8 circumstances shall a post office box serve as an address of record, except as allowed by Business
9 and Professions Code section 2021(b).

10 Place of Practice

11 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
12 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
13 facility.

14 License Renewal

15 Respondent shall maintain a current and renewed California physician's and surgeon's
16 license.

17 Travel or Residence Outside California

18 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
19 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
20 (30) calendar days.

21 In the event Respondent should leave the State of California to reside or to practice,
22 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
23 departure and return.

24 10. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
25 available in person upon request for interviews either at Respondent's place of business or at the
26 probation unit office, with or without prior notice throughout the term of probation.

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11. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is defined as any period of time Respondent is not practicing medicine as defined in Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct patient care, clinical activity or teaching, or other activity as approved by the Board. If Respondent resides in California and is considered to be in non-practice, Respondent shall comply with all terms and conditions of probation. All time spent in an intensive training program which has been approved by the Board or its designee shall not be considered non-practice and does not relieve Respondent from complying with all the terms and conditions of probation. Practicing medicine in another state of the United States or Federal jurisdiction while on probation with the medical licensing authority of that state or jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall not be considered as a period of non-practice.

In the event Respondent's period of non-practice while on probation exceeds 18 calendar months, Respondent shall successfully complete the Federation of State Medical Boards' Special Purpose Examination, or, at the Board's discretion, a clinical competence assessment program that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

Respondent's period of non-practice while on probation shall not exceed two (2) years.

Periods of non-practice will not apply to the reduction of the probationary term.

Periods of non-practice for a Respondent residing outside of California will relieve Respondent of the responsibility to comply with the probationary terms and conditions with the exception of this condition and the following terms and conditions of probation: Obey All Laws; General Probation Requirements; Quarterly Declarations; Abstain from the Use of Alcohol and/or Controlled Substances; and Biological Fluid Testing.

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1 12. COMPLETION OF PROBATION. Respondent shall comply with all financial
2 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
3 completion of probation. Upon successful completion of probation, Respondent's certificate shall
4 be fully restored.

5 13. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
6 of probation is a violation of probation. If Respondent violates probation in any respect, the
7 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
8 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
9 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
10 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
11 the matter is final.

12 14. LICENSE SURRENDER. Following the effective date of this Decision, if
13 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
14 the terms and conditions of probation, Respondent may request to surrender his or her license.
15 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
16 determining whether or not to grant the request, or to take any other action deemed appropriate
17 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
18 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
19 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
20 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
21 application shall be treated as a petition for reinstatement of a revoked certificate.

22 15. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
23 with probation monitoring each and every year of probation, as designated by the Board, which
24 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
25 California and delivered to the Board or its designee no later than January 31 of each calendar
26 year.

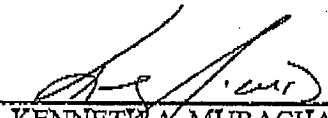
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Robert S. Willoughby. I understand the stipulation and the effect it
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED: 06/12/2017


9 KENNETH A. MURACHANIAN, M.D.
10 Respondent

11 I have read and fully discussed with Respondent Kenneth A. Murachanian, M.D. the terms
12 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
13 Order. I approve its form and content.

14
15 DATED: 6/13/17


16 ROBERT S. WILLOUGHBY
17 Attorney for Respondent

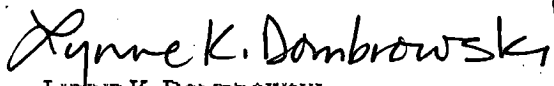
18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Medical Board of California.

21 DATED: 06/14/2017

22 Respectfully submitted,

23 XAVIER BECERRA
24 Attorney General of California
25 JANE ZACK SIMON
26 Supervising Deputy Attorney General

27 
28 LYNN K. DOMBROWSKI
Deputy Attorney General
Attorneys for Complainant

SF2014409015

Exhibit A

Accusation No. 12-2012-227060

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General
LYNNE K. DOMBROWSKI
Deputy Attorney General
State Bar No. 128080
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5578
Facsimile: (415) 703-5480
E-mail: Lynne.Dombrowski@doj.ca.gov
Attorneys for Complainant

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MEDICAL BOARD OF CALIFORNIA
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In the Matter of the Accusation Against:

Case No. 12-2012-227060

KENNETH A. MURACHANIAN, M.D.

ACCUSATION

3536 Mendocino Avenue, Suite 300
Santa Rosa, CA 95403

Physician's and Surgeon's Certificate
No. A64167

Respondent.

Complainant alleges:

PARTIES

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs.

2. On or about December 19, 1997, the Medical Board of California issued Physician's and Surgeon's Certificate Number A64167 to Kenneth A. Murachanian, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2015, unless renewed.

3. Respondent has been board-certified in Internal Medicine since 1999. Since about 2000, Respondent has practiced general internal medicine in Santa Rosa, California.

JURISDICTION

4. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Division¹ deems proper.

6. Section 2228 of the Code states:

“The authority of the board or a division of the board or the California Board of Podiatric Medicine to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

“(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board or division or the administrative law judge.

“(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the division. If an examination is ordered, the board or division shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

“(c) Restricting or limiting the extent, scope, or type of practice of the licensee, including requiring notice to applicable patients that the licensee is unable to perform the indicated treatment, where appropriate.

¹ Pursuant to Business and Professions Code section 2002, "Division of Medical Quality" or "Division" shall be deemed to refer to the Medical Board of California.

1 “(d) Providing the option of alternative community service in cases other than violations
2 relating to quality of care, as defined by the Division of Medical Quality.”

3 7. Section 2234 of the Code, states, in pertinent part:

4 “The board shall take action against any licensee who is charged with unprofessional
5 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
6 limited to, the following:

7 “(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the
8 violation of, or conspiring to violate any provision of this chapter.

9 “(b) Gross negligence.

10 “(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
11 omissions. An initial negligent act or omission followed by a separate and distinct departure from
12 the applicable standard of care shall constitute repeated negligent acts.

13 “(1) An initial negligent diagnosis followed by an act or omission medically appropriate
14 for that negligent diagnosis of the patient shall constitute a single negligent act.

15 “(2) When the standard of care requires a change in the diagnosis, act, or omission that
16 constitutes the negligent act described in paragraph (1), including, but not limited to, a
17 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
18 applicable standard of care, each departure constitutes a separate and distinct breach of the
19 standard of care.

20 “(d) Incompetence.

21 “(e) The commission of any act involving dishonesty or corruption which is substantially
22 related to the qualifications, functions, or duties of a physician and surgeon.

23 “(f) Any action or conduct which would have warranted the denial of a certificate. . . .”

24 8. Section 2242 of the Code states, in pertinent part:

25 “(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022
26 without an appropriate prior examination and a medical indication, constitutes unprofessional
27 conduct. . . .”

9. Section 725 of the Code states:

"(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech language pathologist, or audiologist.

"(b) Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and imprisonment.

"(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or administering dangerous drugs or prescription controlled substances shall not be subject to disciplinary action or prosecution under this section.

"(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section for treating intractable pain in compliance with Section 2241.5."

10. Section 2266 of the Code states: AThe failure of a physician and surgeon to maintain adequate and accurate records relating to the provision of services to their patients constitutes unprofessional conduct.”

PERTINENT CONTROLLED SUBSTANCES

11. Ambien, a trade name for zolpidem tartrate, is a sedative-hypnotic and central nervous system (CNS) depressant that is used for the short-term management of insomnia. It is a Schedule IV controlled substance as defined by section 11057 of the Health and Safety Code and by Section 1308.14 of Title 21 of the Code of Federal Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022. Concurrent use of other CNS depressants (e.g., alcohol, benzodiazepines, opiates, tricyclic antidepressants) increases the risk of CNS depression. Lower doses of zolpidem are recommended for women because the exposure

1 is greater in women than in men receiving the same dose and it is eliminated more slowly in
2 women than in men.

3 12. Ativan, a trade name for lorazepam, is used for anxiety and sedation in the
4 management of anxiety disorder, for short-term relief from the symptoms of anxiety or anxiety
5 associated with depressive symptoms. It is a Schedule IV controlled substance as defined by
6 section 11057 of the Health and Safety Code, and a Schedule IV controlled substance as defined
7 by Section 1308.14 of Title 21 of the Code of Federal Regulations, and is a dangerous drug as
8 defined in Business and Professions Code section 4022.

9 13. Hydrocodone bitartrate with acetaminophen is a semi-synthetic narcotic analgesic that
10 is known by the trade names Norco (at 10 mg. hydrocodone/325 mg. of acetaminophen) or
11 Vicodin (at 5 mg. hydrocodone/500 mg. of acetaminophen). It is a Schedule III controlled
12 substance and narcotic as defined by section 11056, subdivision (e) of the Health and Safety
13 Code, and by section 1308.13 (e) of Title 21 of the Code of Federal Regulations, and is a
14 dangerous drug as defined in Business and Professions Code section 4022. Alcohol and other
15 CNS depressants may provide an additive CNS depression if taken concomitantly with
16 hydrocodone bitartrate. Repeated administration of hydrocodone over a course of several weeks
17 may result in psychic and physical dependence. The total 24-hour dose of acetaminophen should
18 not exceed 4000 mg. (4 grams) because high levels of acetaminophen may cause liver toxicity and
19 even death.

20 14. Xanax is a trade name for alprazolam tablets. Alprazolam is a psychotropic triazolo-
21 analogue of the benzodiazepine class of central nervous system-active compounds. It is used for
22 the management of anxiety disorders or for the short-term relief of anxiety symptoms. It is a
23 Schedule IV controlled substance and narcotic as defined by section 11057, subdivision (d) of the
24 Health and Safety Code and by Section 1308.14 (c) of Title 21 of the Code of Federal
25 Regulations, and is a dangerous drug as defined in Business and Professions Code section 4022.
26 Xanax has a central nervous system depressant effect and patients should be cautioned about the
27 simultaneous ingestion of alcohol and other CNS depressant drugs during treatment with Xanax.
28

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct re Patient MC: Gross Negligence and/or Repeated Negligent Acts and/or Excessive Prescribing and/or Prescribing Without Documented Medical Indication)

15. Respondent is subject to disciplinary action for unprofessional conduct with regard to acts and omissions in the treatment of patient MC under section 2234(b) for gross negligence and/or section 2234(c) for repeated negligent acts and/or section 2242 for prescribing dangerous drugs without an appropriate prior examination and a medical indication and/or section 725 for excessive prescribing, as more specifically presented herein.

16. Starting on or about December 5, 2001, patient MC, a 30-year-old female, began to see Respondent for primary care and was treated primarily for diabetes, obesity, hyperlipidemia, hypertension, and anxiety. Respondent saw patient MC on an intermittent basis.

17. On or about September 6, 2007, Respondent saw patient MC who reported going to a hospital emergency room about a week earlier for injuries from being rear-ended in a motor vehicle accident. Respondent noted that the patient was not in acute distress but had soreness and stiffness and that her neck and back strain were slowly improving. Respondent recommended using heat and Ibuprofen, along with taking the Soma which the emergency department had previously prescribed to the patient.

18. About six weeks later, on or about October 18, 2007, patient MC made a telephone request to Respondent for a prescription of Vicodin. Without seeing the patient and without documenting a medical indication, Respondent issued patient MC a prescription for #60 tablets of Vicodin 5/500 mg.

19. Between September 6, 2007 and October 6, 2008, Respondent did not see and examine patient MC. Yet, during that 13-month period, Respondent continued to regularly prescribe #60 Vicodin 5/500 mg. and #45 Xanax 0.5 mg.

20. On or about October 6, 2008, Respondent saw patient MC who complained of being fatigued, depressed and stressed by her work. There are no documented complaints of pain or any assessment of the patient's pain. Although Respondent's chart note does not document his prescribing, he was continuing to prescribe Vicodin and Xanax to the patient.

1 21. On or about January 27, 2009, Respondent saw patient MC who reported that she was
2 23 weeks pregnant, suffering from hypertension, was placed on labetalol by another physician,
3 and was "off of all other medications at this time." The patient also reported intermittent episodes
4 of shortness of breath and a history of asthma.

5 22. On or about June 23, 2009, Respondent saw patient MC who reported that she was
6 switching her primary care to Kaiser as healthcare provider but wanted to continue to see
7 Respondent and pay on a cash basis. Respondent's chart note does not document any pain
8 complaints or any assessment of the patient's pain. Respondent's documented assessment of the
9 patient is: "hypertension, controlled on combination therapy; asthma, controlled; recent viral
10 upper respiratory tract infection, resolved." Respondent's chart note does not document that on
11 that same day he prescribed #120 Vicodin 5/500 mg. for the patient or that he was continuing to
12 prescribe #45 Xanax to the patient on a monthly basis.

13 23. For about fourteen months, between June 23, 2009 and August 23, 2010, Respondent
14 did not see or examine the patient. Yet, Respondent continued to regularly prescribe the following
15 controlled substances to patient MC: #120 tablets Vicodin 5/500 mg.; #45 tablets Ativan 0.5 mg.;
16 and #60 tablets Ambien 5 mg.

17 24. On or about August 23, 2010, Respondent saw patient MC for the first time in
18 fourteen months. The patient reported that she was now receiving her primary care at Kaiser and
19 that, in May 2010, she had undergone a gastric bypass surgery. Respondent noted that he was still
20 prescribing Ativan to be used "prn" for anxiety. Respondent documented in the chart note that
21 the only other medication that the patient was taking was Celexa. No complaints other than
22 anxiety and depression were noted. Respondent documented that the patient was to continue on
23 Ativan and Celexa and check in with him on a yearly basis.

24 25. Between August 23, 2010 and March 13, 2012, Respondent has no record of seeing
25 and examining patient MC. Yet, on September 10, 2010 and on November 16, 2010, Respondent
26 issued prescriptions to patient MC, each for #120 Vicodin 5/500 mg. And, starting in or about
27 April/May 2011, Respondent prescribed to patient MC on about a monthly basis, #120 Vicodin
28

1 5/500 mg. and #60 Ambien 5 mg., in addition to the #45 tablets of Ativan 0.5 mg. Not all of
2 these prescriptions were documented in Respondent's chart for patient MC.

3 26. On or about March 13, 2012, patient MC returned to see Respondent. This is the last
4 documented visit of patient MC in the records produced by Respondent to the Medical Board.
5 Respondent did not document any patient complaints of insomnia or of pain and Respondent did
6 not assess the patient's status regarding insomnia or pain. Respondent did not document an
7 examination of the patient's back. Respondent's assessment in the chart was: chronic back pain,
8 obesity status post-gastric bypass, anxiety, microalbuminuria, dyslipidemia, depression, and
9 migraine headaches. Respondent noted that he wanted the patient to have a Kaiser physiatrist
10 develop a treatment plan for her back pain. He also noted in the chart note that he would continue
11 "for the time being" to fill prescriptions for lorazepam as well as for Vicodin. On March 8, 2012,
12 Respondent had prescribed #150 Vicodin 5/500 plus one refill. On March 13, 2012, Respondent
13 issued a prescription for #45 lorazepam plus three refills.

14 27. After March 13, 2012, Respondent regularly granted patient MC refills of Vicodin,
15 Ativan/lorazepam, and Ambien/zolpidem, with the knowledge that the patient was being treated
16 by a primary care physician at Kaiser.

17 28. For the five-month period from March 22, 2012 through August 21, 2012,
18 Respondent granted fifteen refills of #150 Vicodin for a total of 2250 tablets, which is an average
19 of about 15 tablets per day, or 7.5 grams of acetaminophen, which exceeds the maximum daily
20 dose of 4 grams or 8 tablets and which is a potentially toxic and fatal dose that may cause liver
21 damage. The CURES records show that, in August 2012, patient MC also obtained Norco 325-5
22 mg. from Kaiser along with oxycodone/APAP and Lorazepam.

23 29. For the approximate two-month period from September 13, 2012 through November
24 14, 2012, Respondent prescribed and the patient obtained a total of #750 tablets of Vicodin 5/500,
25 which is an average of about 10 tablets per day, or about 5 grams of acetaminophen. Again, this
26 dosing exceeds the maximum daily dose of 4 grams and is a potentially toxic and fatal dose that
27 may cause liver damage.
28

1 30. Respondent's granting of an early refill of Vicodin for the patient in September 2012
2 put the patient at great risk. In particular, on or about September 13, 2012, Respondent prescribed
3 and patient MC obtained #150 Vicodin. Then, ten days later on or about September 23, 2012,
4 patient MC obtained another #150 Vicodin from Respondent's prescription. This early refill
5 suggests that the patient may have consumed nearly 15 tablets per day when the maximum should
6 not exceed 8 tablets a day. Further, prescribing records indicate that, on September 6, 2012,
7 patient MC had obtained from Kaiser #60 tablets of Norco 325-10 mg., which is also
8 hydrocodone bitartrate and acetaminophen.

9 31. Respondent continued to prescribe for patient MC, without seeing the patient and
10 with the knowledge that the patient was being treated by physicians at Kaiser. The prescribing
11 records indicate that, for the five month period, August through December 2012, Respondent
12 prescribed to patient MC:

13 #1200 tablets of Vicodin 5/500 mg. (hydrocodone/acetaminophen);

14 #360 Lorazepam 0.5 mg./Ativan; and

15 #210 zolpidem 5 mg./Ambien.

16 During this same five month period, the prescribing records indicate that the patient
17 received the following controlled substances from Kaiser physicians:

18 #720 tablets of Norco 325/5 mg. (hydrocodone/ acetaminophen);

19 #240 tablets of Lorazepam, and

20 #60 tablets of oxycodone/acetaminophen 325/5 mg.

21 32. Respondent's records document a telephone message on April 30, 2013 in which he
22 declined patient MC's request to be her primary care physician.

23 33. Respondent's overall conduct, acts and/or omissions, with regard to patient MC, as
24 set forth in paragraphs 15 through 32 herein, constitutes unprofessional conduct through gross
25 negligence and/or repeated negligent acts and/or excessive prescribing and/or prescribing without
26 an appropriate prior examination and a medical indication, pursuant to Business and Professions
27 Code Sections 2234 subdivisions (b) and/or (c) and/or section 725 and/or section 2242, and is
28

1 therefore subject to disciplinary action. More specifically, Respondent is guilty of unprofessional
2 conduct as follows:

3 a. Respondent excessively prescribed on a regular basis for years large amounts
4 and doses of controlled substances without performing and documenting an appropriate
5 examination and a medical indication for the prescribing, and without requiring periodic office
6 visits every two or three months to assess the treatment.

7 b. For a period of at least several months, Respondent prescribed toxic amounts of
8 acetaminophen to patient MC, between 5 grams and 7.5 grams daily, which far exceed the
9 maximum daily amount of no more than 4 grams.

10 c. Respondent failed to perform periodic testing and monitoring of the patient's
11 liver, kidney and bone marrow functioning while prescribing toxic and potentially fatal chronic
12 doses of acetaminophen.

13 d. Respondent did not perform adequate monitoring and periodic review of the
14 patient's use of chronic controlled substances, including not taking appropriate steps to confirm
15 that the patient was taking the medications prescribed and/or that the patient was not obtaining
16 controlled substances from other prescribers, and by granting the patient's early refill requests.

17 e. Respondent did not document warning the patient of the risks of chronic use of
18 the prescribed controlled substances, by themselves or in combination, particularly with alcohol,
19 or of the risks of chronic use of high doses of drugs containing acetaminophen.

20 f. Respondent failed to document in the patient's chart all of the controlled
21 substance prescriptions and refills that were approved by Respondent.

22 SECOND CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct re Patient LC: Repeated Negligent Acts and/or Excessive Prescribing
24 and/or Prescribing Without Documented Medical Indication)

25 34. Respondent is subject to disciplinary action for unprofessional conduct with regard to
26 acts and omissions in the treatment of patient LC under section 2234(c) for repeated negligent
27 acts and/or section 2242 for prescribing dangerous drugs without an appropriate prior examination
28

1 and a medical indication and/or section 725 for excessive prescribing, as more specifically
2 presented herein.

3 35. On or about March 8, 2007, Respondent began to provide primary care to patient LC,
4 a 61-year-old female, who presented with multiple medical problems: Type 2 diabetes,
5 depression, osteoarthritis, hypothyroidism, acid reflux disease, dyslipidemia, and obesity. Patient
6 LC was being treated for a mouth cancer by a specialist. Respondent documented in the patient's
7 chart that she had a history of occasional alcohol use, no IV drug use, and a past history of intra-
8 nasal cocaine use. The patient reported taking Lexapro 10 mg daily, Celebrex, and Vicodin as
9 needed for pain, along with other medications. Respondent referred the patient for baseline
10 labwork, a radiation consult, noted that he would review the prior records provided by the patient
11 and that he would make no medication changes.

12 36. Starting in or about April 2007, Respondent saw patient LC about every 2 or 3
13 months and regularly refilled monthly prescriptions for #20 Ambien 10 mg. (zolpidem) and #50
14 Vicodin (hydrocodone/APAP 5/500) as needed for pain. Respondent, however, failed to
15 document the patient's complaints of pain and/or of insomnia and failed to document an
16 appropriate examination and medical indications for the prescribing. Respondent's chart notes for
17 the patient's visits do not document that the patient is being regularly prescribed Ambien and
18 Vicodin.

19 37. From about April through November 2010, the amounts increased and Respondent
20 prescribed monthly about #120 Vicodin 5/500 and #45 Ambien/zolpidem 10 mg. Thus,
21 Respondent prescribed 15 mg. of zolpidem per night to patient LC, which dosing is above the
22 recommended maximum dose of 5 mg. to 10 mg. nightly. Respondent did not document a
23 medical indication for the prescribing of the Ambien or of the Vicodin.

24 38. On or about August 23, 2011, Respondent saw patient LC who reported increasing
25 pain in her hands and ankles from arthritis, that the Vicodin was ineffective, and that she wanted a
26 stronger pain medication. Respondent increased the dose of hydrocodone to 10 mg, without
27 documenting an appropriate medical examination and a medical indication. Respondent
28 continued to prescribe nightly 15 mg. of Ambien without documenting a complaint of insomnia

1 and/or without an assessment of the patient's sleep problems. Respondent's prescribing of
2 Ambien continued to exceed the maximum dosing.

3 39. On or about April 25, 2012, which was a Wednesday, Respondent noted that patient
4 LC had a history of alcoholism, was sober for about 15 years then about 5 years ago began
5 drinking again, which escalated to consuming about a half bottle of wine a day. Patient LC
6 reported hitting "rock bottom" over the weekend and stated that she had not had a drink since
7 Sunday. Patient LC felt "shaky and jittery" and said that she had not resumed AA meetings.
8 Respondent continued to prescribe 15 mg nightly of Ambien/zolpidem and up to 8 tablets daily of
9 Norco 10-325 mg. Respondent's assessment included "Alcoholism, going through mild/moderate
10 withdrawal." Respondent did not document any complaints or an assessment of pain or of sleep
11 problems. Respondent's plan was to recommend abstinence and returning to AA.

12 40. Respondent next saw patient LC on or about June 20, 2012. The patient reported
13 being back in AA and not having a drink since before her last visit, which was on April 25, 2012.
14 Respondent did not take steps to verify the patient's claims and did not document any assessment
15 of pain or of sleep problems. Respondent continued to prescribe all medications as previously
16 prescribed.

17 41. On or about July 17, 2012, Respondent saw patient LC who complained of fatigue.
18 Respondent referred the patient for a sleep study and to urology. Respondent did not document in
19 the chart any follow-up or assessment of the patient's alcoholism or pain status. Respondent
20 continued to prescribe all medications as previously prescribed.

21 42. On or about August 23, 2012, Respondent saw patient LC who said that she had
22 completed a sleep study but was waiting for the results. Respondent did not document in the
23 chart any follow-up or assessment of the patient's alcoholism or pain status. Respondent's
24 assessment included "obstructive sleep apnea" but there were no objective findings documented
25 to support this assessment. Respondent continued to prescribe all medications as previously
26 prescribed, including Ambien and Norco 10-325. Respondent noted that the patient was taking a
27 scuba diving trip in September and that he would grant an early refill of the Norco and Ambien
28 prescriptions.

1 43. On or about September 27, 2012, Respondent noted in patient LC's chart that he had
2 called the patient to withdraw as her primary care physician because of the letter he had received
3 from the patient's son. The patient's son had sent a letter asking Respondent to immediately
4 cease prescribing to patient LC because she was drinking alcohol and abusing the prescribed
5 controlled substances, which resulted in an episode on September 25, 2012 where patient LC had
6 an altered mental state with slurred speech, for which she was taken to a hospital emergency
7 department for evaluation and treatment. The diagnosis at the hospital was that patient LC had an
8 "altered mental state," toxic encephalopathy – alcohol, Ambien, narcotic.

9 44. Respondent's overall conduct, acts and/or omissions, with regard to patient LC, as set
10 forth in paragraphs 34 through 43 herein, constitutes unprofessional conduct through repeated
11 negligent acts and/or excessive prescribing and/or prescribing without an appropriate prior
12 examination and a medical indication, pursuant to Business and Professions Code Sections 2234
13 subdivision (c) and/or section 725 and/or section 2242, and is therefore subject to disciplinary
14 action. More specifically, Respondent is guilty of unprofessional conduct as follows:

15 a. Respondent failed to perform and adequately document an appropriate
16 examination and assessment of the patient's complaints of pain and of insomnia.

17 b. Without documenting a medical indication for the prescribing, Respondent
18 regularly granted refills of hydrocodone and zolpidem, in maximal doses. Respondent regularly
19 prescribed, for several years, a 15 mg. dose of Ambien, which exceeded the maximum
20 recommended dose.

21 c. Respondent failed to refer the patient to be evaluated by nonsurgical and/or
22 alternative specialists or for psychiatric or addiction evaluation, particularly after patient reported
23 a relapse in April 2012.

24 d. Respondent failed to conduct a periodic review of the patient and never took
25 steps to determine whether the patient was taking the medications prescribed and/or was
26 consuming alcohol and/or was obtaining controlled substances from other prescribers.

27 e. Failed to document obtaining informed consent from the patient for the chronic
28 prescribing of controlled substances.

1 THIRD CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Repeated Negligent Acts re Patients MC and LC)

3 45. Respondent is subject to disciplinary action for unprofessional conduct with regard to
4 acts and omissions in the treatment of patient MC and of patient LC under section 2234(c) for
5 repeated negligent acts . Paragraphs 15 through 44 are incorporated herein by reference as if fully
6 set forth.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Unprofessional Conduct: Inadequate Medical Records re Patients MC and LC)

9 46. Respondent is subject to disciplinary action for unprofessional under section 2266 for
10 failing to maintain adequate and accurate records for patient LC and/or patient MC. Paragraphs
11 15 through 44 are incorporated herein by reference as if fully set forth.

12 PRAYER

13 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
14 and that following the hearing, the Medical Board of California issue a decision:

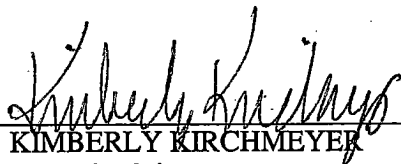
15 1. Revoking or suspending Physician's and Surgeon's Certificate Number A64167,
16 issued to Kenneth A. Murachanian, M.D.;

17 2. Revoking, suspending or denying approval of Kenneth A. Murachanian, M.D.'s
18 authority to supervise physician assistants, pursuant to section 3527 of the Code;

19 3. Ordering Kenneth A. Murachanian, M.D., if placed on probation, to pay the Medical
20 Board of California the costs of probation monitoring; and

21 4. Taking such other and further action as deemed necessary and proper.
22

23 DATED: October 7, 2014

24 
25 KIMBERLY KIRCHMEYER
26 Executive Director
27 Medical Board of California
28 Department of Consumer Affairs
State of California
Complainant

SF2014409015